

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

MANUEL TOMAYO TORRES, JR.,

Plaintiff,

No. C 08-3442 PJH (PR)

v.

**ORDER OF DISMISSAL**

MIKE EVANS, et al.,

Defendants.

This is a civil rights case filed pro se by a state prisoner. The clerk sent plaintiff a notice that he had not paid the \$350 filing fee or applied for leave to proceed in forma pauperis ("IFP"). He was warned that the case would be dismissed if he did not do one or the other within thirty days. Presumably in response to the clerk's notice, plaintiff mailed the court his copy of the clerk's notice and a "Trust Account Withdrawal Order" for five dollars. The court entered an order saying that the form evidently was sent in error, rather than a check; that there was no way to know whose fault that was; and that regardless of whose fault it was, plaintiff still had not paid the filing fee or asked for leave to proceed IFP. He was warned that the filing fee for civil rights cases such as this is \$350, not five dollars, and was granted thirty days to either pay the fee or apply for leave to proceed IFP.

The time has expired and plaintiff has not responded. This case therefore is **DISMISSED** without prejudice. The clerk shall close the file.

**IT IS SO ORDERED.**

Dated: October 21, 2008.

  
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PHYLLIS J. HAMILTON  
United States District Judge

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